



**MINUTES OF SPECIAL JOINT MEETING OF THE  
CITY COUNCIL/REDEVELOPMENT AGENCY  
OF THE CITY OF HAYWARD**  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, February 22, 2005, 8:00 p.m.

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**MEETING**

The Special Joint City Council/Redevelopment Agency Meeting was called to order by Mayor/Chair Cooper at 8:04 p.m., followed by the Pledge of Allegiance led by Council/RA Member Halliday.

**ROLL CALL**

Present: COUNCIL/RA MEMBERS Jimenez, Quirk, Halliday, Ward, Dowling, Henson  
MAYOR/CHAIR Cooper  
Absent: COUNCIL/RA MEMBERS None

**PUBLIC COMMENTS**

There were no Public Comments.

**CONSENT**

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of February 15, 2005.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Jimenez, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of February 15, 2005.

**HEARING**

2. Appeal of Revocation of Use Permit PL-2003-0373 – Christian Vigilance Church – The Property is Located at 28767 Ruus Road

Staff report submitted by Planning Manager D. Anderly, dated February 22, 2005, was filed.

Prior to the staff report, Mayor Cooper announced that this public hearing is not about a revocation, and not a religious issue, but rather a timeline for completion of improvements as required by the issuance of a use permit.

Planning Manager Anderly depicted the location of the Christian Vigilance Church and provided information relating to continued use of that site as a church. She noted the conditions of approval that the church complied with as well as those not completed. She commented favorably on the community meeting held as well as the meeting held at City Hall with local clergy, the church attorney, and city staff to resolve concerns. The improvements and changes made to alleviate and address neighborhood concerns were reported. The City has embarked on a capital improvement project and the church will be relieved of the requirement of installing the curb, gutter and sidewalk. Planning Manager Anderly

also showed a depiction of the original configuration as approved by Alameda County Planning staff from the sixties. It was noted that the sign did not conform to City of Hayward sign regulations. She reiterated the staff recommendation that addresses health and safety issues first. She read staff's recommended timeline and emphasized that there is no recommendation to revoke the church's use permit. Staff is recommending establishment of reasonable hours of operation.

City Manager Armas reported that the sidewalks and gutters will be installed along Ruus Road as part of the City's capital improvements funding. This alleviates the church from having to use from \$80,000 to \$100,000 from church funds for this costly improvement. As the neighborhood noise complaints have ceased and the parking area relocated, the installation of a sound wall is no longer necessary and that condition no longer would apply. These changes to the conditions of approval substantially relieve the church financially.

Planning Manager Anderly read the timeline from Exhibit A of the staff report and responded to Council queries. It was noted that if approval of the timeframe occurs, there is no need to pursue the revocation matter. Conditions will be modified to comply with Council deliberations at this time.

Council Member Henson asked if an original use permit from Alameda County was provided to staff. Planning Manager Anderly responded that the original use permit was from the 1960's and the rough site plan consisted of a drawing that was re-depicted by staff. He asked for further clarification on the revocation process. He re-confirmed that no further noise complaints from the neighbors have been received by staff.

Council members asked for clarification on the recommendation and the action to be considered. City Attorney O'Toole confirmed that the action would be to first sustain or deny the appeal and then notify staff of any modifications to the conditions of approval. Discussions ensued on hours of operation imposed on other churches in Hayward and on the timing and completion of the capital improvement project to install the sidewalk. It was reported that it is scheduled for this fiscal year and will be completed prior to the rainy season.

Council Member Ward suggested that it would be prudent to install temporary barriers besides the signs to deter parking near the homes. Staff suggested several types of barriers that would also serve to preserve the fence. There was also discussion on what improvements would be completed first. It was noted that perhaps the major costs of the improvements might be the paving of the parking areas both in front and in the back of the church and whether this could be completed with the assistance of volunteers. Bishop Macklin reported that there are church members who will volunteer to help with landscaping, but not for the paving. Council was also interested in knowing whether the applicant had been informed of the sign regulations. It was confirmed that the applicant now understands what is required via the church attorney.

Council Member Jimenez asked about the hours of operation and for a total of the improvement costs. He asked why staff was imposing sign regulations when the sign seemed appropriate to him.

Planning Manager Anderly read from Mark Cohen's, the church attorney, correspondence and responded that the sign must comply with the City's sign regulations.

Council Member Quirk appreciated the efforts of staff towards this project. He asked where additional curbing will be installed besides along the parking area. Staff responded that the Code requires that a



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six-inch curb must be installed to delineate the landscaping from the parking area and for its protection. Planning Manager Anderly pointed out the accessory buildings on the aerial map that need to be removed.

Council Member Dowling asked for further information on the sign regulations. Planning Manager Anderly stated that the regulations provide a smaller size with restrictions for a set back as the church is located in a residential district.

It was re-clarified to Council Member Henson that Council may deal with the revocation first, then the timeframe and make any adjustments or modifications to any of the conditions of approval.

Mayor Cooper opened the public hearing at 8:49 p.m.

Henry G. Villalobos commented that the property is in need of improvements as suggested by staff and expressed his opinion on its appearance.

Jerry Okendo, representing the League of United Latin American Citizens and works with the Justice Department, spoke against imposing hours of operation on the church and cautioned against any potential for racism or imposing on religious freedom.

Andrew LaFleur stated that he lives across the street on Ruus Road. He agreed with imposing hours of operation and commented on his unpleasant experience with noise as a neighbor.

Pastor P. McKery, representing the Palm Ceia Baptist Church at 28605 Ruus Road, spoke in support of the work of churches and against imposing hours of operation on churches. He indicated that there are evident signs of crime in the neighborhood that need to be addressed. He would prefer limiting the hours of operation for such businesses and uses as night clubs, bars and card clubs, rather than churches.

Mark Oakman, representing the Latter Day Saints of the area, spoke against the City imposing hours of operation and an unreasonable timeline. He suggested the City allow the church to determine that timeframe. He commented that there could be an exception to the sign that was recently installed without a permit.

Jeff Cook spoke as an elder of his church against the unreasonable burden placed by the City in relation to the conditions of approval. He urged that the conditions be modified relating to the sound complaints and the accommodations made to satisfy the neighbors. He did not believe in restricting the hours of operation. He urged a longer timeline.

Chuck Horner, Calvary Baptist Church on Ruus Road, commented that the masonry base for the current sign is from the previous signage and only the current sign is new. He discussed the City's action will set a negative precedent to other churches. He compared several of the conditions of

approval with his own church and was expressly concerned that the City could close his church for similar reasons.

Rodney Hogue, representing Community Grace Baptist on Elmhurst Street, agreed that some reasonable conditions could be imposed for safety issues, but his main issue was the imposition of hours of operation. He felt strongly that this condition restricts the conduct of church activities. He submitted signed statements or petitions from his parishioners.

Mark Cohen, attorney representing Christian Vigilance Church, spoke on the positive efforts of the community. He spoke against the imposition of a timeline because the church may not be able to meet the deadlines due to a number of reasons, the main being the cost of the improvements. He also noted that the location of the parking had changed and further bids may be necessary. He presented the proposed solution and spoke against the imposition of the timeline. The church staff is willing to comply but not ready to respond to a timeline, as situations have changed since the last meeting, namely the re-configuration of the parking area. He estimated that the lighting could cost \$42,000, and the paving has been revised to approximately \$101,000, with the landscaping ranging between \$150,000 and \$200,000. He felt that this was a positive step forward, but needed to find out what the City was expecting. He referred to his e-mail and asked that it be made part of the official record. In response to Council Member Henson's question, he informed him that there are about 150 members in this congregation that include hard working young families. He responded to Council questions related to funds needed for the revised parking lot.

Council Member Ward reported that he received the e-mail from Mr. Cohen. He asked Mr. Cohen about the timeline and reiterated that the conditions were imposed over a year ago. He expressed his concerns that no timeline has been submitted and was not opposed to modification of the staff recommended timeline. He reiterated the savings to the church and urged the church to work with Council to implement the conditions and adhere to a particular timeline so that Council could make a definitive decision. In discussion with Mr. Cohen, he emphasized the necessity of a timeline.

Mark Cohen stated that the church could not respond due to the recent changes by staff to the required conditions. He was anticipating that the City allow the church to research the costs of the improvements and return with a preferred timeline.

Council Member Ward could not in be in agreement to proceed without a timeline.

Council Member Halliday agreed that there is an obligation to the neighborhood of noise and the unpaved parking lot. She favored imposing a deadline and reiterated the City's contribution towards lowering their expenses for improvements. She asked the representing attorney for a reasonable timeline toward completing the conditions.

Mark Cohen, attorney for the church, reluctantly agreed that the church could complete the improvements within two years and may need to request another extension.

Council Member Quirk appreciated the progress thus far on resolving issues and commended both staff and the church. He agreed with Mr. Cohen about being "justly cautious." He commended the church members for changing their parking area in an effort to be "good neighbors." He urged the church attorney to work with staff and provide the estimates and provided a suggested set of priorities.



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Council Member Dowling echoed Council Member Quirk's comments related to the progress that has been done recently. He thanked the religious community, in particular Bishop Macklin and Pastor Smith, for their positive efforts. He stressed the safety precautions that need to be made to the parking lot lighting and the paving and could consider waiving the landscaping condition. He felt that it would be fair to consider granting a sign variance.

Mr. Cohen presented his perspective and his goal to see the church implementing the lighting, paving, and landscaping in the future.

Pastor Esteban Pineda, representing Victory Outreach Church at 26747 Huntwood Avenue, spoke against the imposition of a timeline on the church. In response to Council Member Henson's question, he indicated that Victory Outreach membership would volunteer to assist in the landscaping.

Pastor Thomas Quillen, representing Full Gospel Temple, spoke against the timeline imposition and noted that his church will be assisting with volunteers.

Pastor Mark Copeland, representing King Life Church on Campus Drive, commented on his experience with his neighbors and the difficulty of congregations to raise funds to comply with City ordinances. He believed that there is a workable solution for Christian Vigilance Church.

Reverend Randy Smith, representing First United Methodist Church suggested replacing Conditions of Approval #9-13 with the language as suggested in the e-mail from the attorney for the church, Mark Cohen. He could support a variance for the sign as it seemed appropriate for that neighborhood. He asked that in the future, the City consider seeking community based solutions to respond to this kind of problem or to address particular issues.

Raymond Paul Van Camp, a life-long resident in the neighborhood, agreed with staff that the improvements are needed. He stated that he was representing the Church of all Nations on Baumberg Avenue and submitted statements from his congregation. He was impressed with this workable solution by both staff and Council.

Bishop J. W. Macklin thanked the Council for allowing the community churches to seek resolution and discuss ways of helping one another. He reported that he received a recommendation and bid for the paving project at the church to be approximately \$150,000 with volunteer assistance. He reiterated his concerns on restricting hours that could set a dangerous precedent. He commented against several conditions of approval, stating that they were over-restrictive, relating to the playing of drums and prohibiting outdoor music and requiring closed windows and doors during music sessions. He pointed out his preference to hearing drum music, from a church rather than from the streets. Bishop Macklin also submitted petitions from his membership.

Reverend Jesse L. Davis, Pastor of Shiloh Baptist Church in South Garden, urged the Council to work favorably with this church.

Sean Ellis was impressed with the compromise and appreciated the work done by the churches, Council and staff.

Betty DeForest asked staff when the City's Capital Improvement project to construct and install sidewalks, curbs and gutter in front of this property might be completed. In response to staff's answer that it could be completed by the end of this fiscal year, she suggested that the church be given one year after the City's improvement is constructed to comply with all the conditions.

Mayor Cooper closed the public hearing at 10:08 p.m.

As a matter of record, the total number of statements or petitions in favor of the Christian Vigilance Church submitted by the Christian Clergy, representing the respective churches was 1,062.

Council Member Halliday moved to uphold the appeal of the Planning Commission revocation action, update the use permit with conditions of approval that were previously approved in November of 2003. She moved to eliminate Condition of Approval #9 related to drums or amplified music being played when doors or windows are open and the prohibition of outdoor music. She also moved to eliminate Condition of Approval #12 related to hours of operation and Condition of Approval #13 and replace with a new #12 that incorporates the wording submitted by Mr. Cohen, "the church management taking the necessary steps to assure the orderly conduct of members and visitors, entering and exiting the premises and visiting the premises and is conducted in a manner that is respectful to its neighbors. She cautioned against setting a precedent of imposing hours of operation. In addition, she moved to approve a variance for this sign, as she did not see it as offensive. She also moved to direct the church to work with the Planning staff to set a timeline for compliance with the conditions relating to the paving of the parking lot and the lighting and landscaping. She would be open to recommendations to some kind of over timeline to be completed perhaps as long as two years. And that a report of the completion and update is provided by the City Manager.

Council Member Dowling seconded the motion.

Council Member Ward expressed concern regarding granting a variance when one has not been requested. It was noted that the applicant would need to initiate that process.

He asked Mr. Cohen about the language in the email to the Council. Mr. Cohen stated that he agrees with Council Member Halliday's motion. His language related to setting some hours of operation.

Council Member Ward stated that he would support the motion. He reiterated Council's role in applying rules and regulations. He desired to be consistent and adhere to those rules and not make exceptions that could set a precedent and provide opportunities for fairness and equity to all that come before the City Council. He cited a previous request by one of the churches during the building process and noted that this process of imposing conditions on churches is not new. He offered a friendly amendment to the timeline which he felt should be more precise. He referred to page 4 of the Agenda Report stating that he was not opposed to staff's recommendation to remove the sign, but suggested a new deadline of April 1, 2005. As a member of the City Council, he would assist financially for the replacement of the sign with a significant contribution. The removal of the accessory buildings is not a problem for the church, so he indicated that the removal be moved to June 22, 2005. With regard to #3, the October 1, 2005 date for the installation of the lighting be moved to March 2006, the re-paving of the parking areas, #4, completed by June 2006, and the landscaping completed



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by August 2006. Council Member Ward felt that this suggested timeline is fair and reasonable and would give the applicant time to raise the resources in a sufficient amount of time.

Council Member Halliday indicated that she would consider this after she listens to other Council suggestions.

Council Member Quirk spoke in respect to the timeline. He suggested that the #3 deadline date should remain as October 1, 2005, as he recalled that the church has some monies to fund the lighting for the parking area, which is a priority safety issue. He was agreeable to the March 1, 2007, completion date as suggested by Mr. Cohen. He agreed with Council Member Ward's friendly amendment to revise the date for #1, and #2, but maintain the deadline for #3, as staff recommended, because the church had previously indicated that there is some funding available. He asked if the maker of the motion would be open to this.

Council Member Halliday was concerned that the schedule for the completion of the paving of the parking area would determine when the lighting can be installed.

City Manager Armas commented that staff recommended benchmarks make sense but there may be an artificial separation. He suggested another timeline that would combine deadlines for Conditions #3, #4 and #5, to February 2006, with flexibility for authorizing the Planning Manager to determine if there is substantial progress that there is opportunity for an extension of 12 months.

Council Member Halliday accepted the City Manager's recommendation and felt that it provided the flexibility that is needed in this situation. Her main concern, in response to the clergy, was not to impose hours of operation on churches. She hoped that the church would continue to be a good neighbor. City Manager Armas indicated that there are hours of operation incorporated in Mr. Cohen's language. Mark Cohen's language was revised to read, "Church management shall take necessary steps to assure the orderly conduct of members and visitors entering and exiting the premises and visiting the premises. The conduct and the affairs of the church shall be generally conducted in a manner that does not create any consistently annoying sound levels to its residential neighbors and shall be conducted in a manner that is respectful to its residential neighbors."

Council Member Dowling stated that he would support the motion as amended by staff's suggestions to revising the timeline, but would prefer that the maker of the motion provide for accepting the current sign as is.

There was consensus that extending the timeframe for the church to comply with the sign regulations by May 1, 2005, would provide the applicant opportunity to apply for a variance.

Council Member Quirk expressed his concerns for the neighbors.

Council Member Henson commended Council Member Halliday for her comments against imposing hours of operation on a church. He agreed that there are all kinds of activities occurring in church

facilities throughout the area. He agreed with the City Manager's recommended timeline that insures that if there is substantial progress being made an extension could be permitted. He agreed with Council Member Dowling regarding the sign, noting that it is an improvement. He urged the church to seek the variance. Lastly, he commended the larger church community for offering to volunteer to complete the landscaping, emphasizing that churches are an integral part of this community.

Council Member Ward stated that he would be supporting the motion and expressed his thanks to the church community, in particular Bishop Macklin and Reverend Davis, for their efforts in organizing and seeking community-based solutions. He asked for clarification of the timeline as follows: For #1, related to the sign, May 1, 2005, to remove the accessory buildings; in #2 the date would move to June 22, 2005; for # 3, 4 and 5, the deadline would be February 22, 2006, with the understanding that staff could extend it one more year if substantial progress has been demonstrated.

City Manager Armas reminded the Council that the request for a sign variance is not before the Council at this time, but could be initiated by the applicant as early as the next day. He asked that the action refer to the condition that vehicles not be parked along the fence and recognize the deletion of the conditions requiring the sound wall and the sidewalk project. He also noted that Conditions #9-13 be substituted with Mark Cohen's language.

Mayor Cooper expressed her concerns starting with the noise from cars in the early hours. She stressed the importance of the church being respectful to its neighbors. Whenever there are children, they should be properly supervised and kept away from the fences. Any playground installation should be in compliance with the American Disabilities Act. She has lived in Hayward for over 40 years and there have been some substantial changes in the City including additional homes and traffic. She stressed the importance of having an adequate parking lot in order to provide turnaround opportunities for fire apparatus. Lastly, her personal comment was that she hoped that if our Muslim neighbors have trouble, that the Christian community would be here to support their concerns. Not only the Christian community, but we as human beings must extend our concerns, our respect and our sharing with those who are not of our religious faith. She indicated that she was holding the Christian community accountable for supporting the rights of worship by non-Christians.

Council Member Dowling confirmed that the motion did not include restricted hours of operation.

Mayor Cooper suggested that churches situated in residential neighborhoods send out flyers to notify their neighbors when outdoor or special activities are scheduled.

Mayor Cooper closed the public hearing at 10:44 p.m.

It was moved by Council Member Halliday, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 05-010, "Resolution Adopting Time Frames for Completion of Conditions of Approval for Use Permit No. PL-2003-0373"

Mayor Cooper called for a recess and reconvened at 10:49 p.m.

## **LEGISLATIVE BUSINESS**





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3. Authorization to Install Solar Power Electrical Generating System at Barnes Court

Staff report submitted by Facilities Manager Avila, dated February 22, 2005, was filed.

Acting Assistant City Manager Carter made a brief presentation seeking authorization to install a solar power electrical generating system on the roof of the Barnes Court facility that houses several city divisions. This site was chosen because it has sufficient roof space and is a good location for sun exposure. Using slides, he showed examples of public buildings with the installation. The total cost of the system including installation is \$1.8 million. He noted that half of the cost will be paid by PG&E authorized by the California Public Utilities Commission. Staff is recommending that the project be lease-financed over a period of 25 years at an interest rate of 6%. He listed the environmentally positive impacts and the energy savings of this project and the net profit. PowerLight Corporation is an approved vendor and he introduced the representatives present as well as introduced Building Manager Vic Avila.

Council Member Henson commented that he visited the Santa Rita Detention Center and was aware of the savings to the County. He asked that Mr. Carter speak more on the green tag savings that are attached to this project as described in the agenda report. When he asked if there were rebates on the state and Federal level, staff was not certain, but would look into it.

Council Member Dowling asked how staff determined this building and asked that sometime in the future the City Manager could provide a written update on whether this is feasible in other city facilities.

Council Member Halliday inquired about the proprietary panel, how long it has been used and how long any of the systems have been operating. She felt that this was an improvement over what is intended for the recently approved Southland Mall project.

Marko Garcia, representing PowerLight Corporation, responded to Council questions relating to the solar panels which are manufactured polycrystalline panels, and have been used by NASA since 1954. He noted that it is a reliable technology with no moving parts and there is a twenty-five year warranty on the life of the panel. The current project benefits a 50% rebate that will end this year. This is the best economically viable system. The City of Hayward had submitted this project in 2004 and was at the top of the list of over 300 applicants.

As there were no requests to speak, Mayor Cooper opened and closed the opportunity to speak at 11:01 p.m.

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 05-011, “Resolution Authorizing the Installation of a Solar Power Electrical Generating System Atop the City’s Barnes Court Warehouse”

**COUNCIL REPORTS**

There were no Council items.

**ADJOURNMENT**

Mayor/Chair Cooper adjourned the meeting at 11:02 p.m.

**APPROVED:**

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Roberta Cooper, Mayor, City of Hayward  
Chair, Redevelopment Agency

**ATTEST:**

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Angelina Reyes, City Clerk, City of Hayward  
Secretary, Redevelopment Agency